

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

### **I. DISPUTE**

1. a. Whether there should be additional reimbursement of \$3,477.40 for date of service 05/02/01.
- b. The request was received on 02/27/02.

### **II. EXHIBITS**

1. Requestor, Exhibit I:
  - a. TWCC 60
  - b. HCFA 1450-UB-92
  - c. TWCC 62 form
  - d. Medical Records
  - e. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
2. Respondent, Exhibit II:
  - a. Response to a Request for Dispute Resolution
  - b. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
3. Per Rule 133.307 (g) (3), the Division forwarded a copy of the requestor's 14 day response to the insurance carrier on 06/26/02. Per Rule 133.307 (g) (4), the carrier representative signed for the copy on 06/26/02. The response from the insurance carrier was received in the Division on 07/03/02. Based on 133.307 (i) the insurance carrier's response is timely.
4. A letter Requesting Additional Information is reflected as Exhibit III of the Commission's case file.

### **III. PARTIES' POSITIONS**

1. Requestor: Letter dated 06/14/02

“We do not feel that the payment received is fair and reasonable. As there are no MAR fee guidelines set by TWCC for our facility, we expect 85% of the billed charges.”

2. Respondent: Letter dated 07/03/02

“1. There is no MAR for outpatient ASC services. Such services are to be billed at a fair and reasonable rate and paid a fair and reasonable amount.

2. The requestor offered no explanation for its contention that \$4,580.00 is a fair and reasonable charge for services associated with providing a diskogram other than to show that three other carriers paid at least 85% of its billed amount.”

#### **IV. FINDINGS**

1. Based on Commission Rule 133.307(d) (1) (2), the only date of service eligible for review is 05/02/01.
2. This decision is being written based on the documentation that was in the file at the time it was assigned to this Medical Dispute Resolution Officer.
3. Per the Requestor’s Table of Disputed Services, the Requestor billed the Carrier \$4,580.00 for services rendered on the above dates in dispute.
4. Per the Requestor’s Table of Disputed Services, the Carrier paid the Requestor \$415.60 for services rendered on the above dates in dispute.
5. The amount left in dispute is \$3,477.40.
6. The Carrier’s EOBs deny additional reimbursement as “M-FAIR AND REASONABLE REIMBURSEMENT FOR THIS ENTIRE BILL IS MADE ON THE ‘OR SERVICE’ LINE ITEM.”

#### **V. RATIONALE**

Medical Review Division's rationale:

The medical documentation indicates the services were performed at an ambulatory surgery center. Commission Rule 134.401 (a)(4) states ASCs, “shall be reimbursed at a fair and reasonable rate...”

The MFG reimbursement requirements for DOP states, “An MAR is listed for each code excluding documentation of procedure (DOP) codes... HCPs shall bill their usual and customary charges. The insurance carrier will reimburse the lesser of the billed charge, or the MAR. CPT codes for which no reimbursement is listed (DOP) shall be reimbursed at the fair and reasonable rate.”

Medical documentation submitted indicates these charges are for a discogram. The Medical Review Division has reviewed the file to determine which party has provided the most persuasive evidence in regards to fair and reasonable. The provider has submitted additional reimbursement data: three example EOBs for charges billed for similar services.

The carrier, according to their denial on the EOB, asserts that they have paid a fair and reasonable reimbursement, but have not submitted a methodology to support their reimbursement. Per Rule 133.304 (i), "When the insurance carrier pays a health care provider for treatment(s) and/or service(s) for which the Commission has not established a maximum allowable reimbursement, the insurance carrier shall:

1. develop and consistently apply a methodology to determine fair and reasonable reimbursement amounts to ensure that similar procedures provided in similar circumstances receive similar reimbursement;
2. explain and document the method it used to calculate the rate of pay, and apply this method consistently;
3. reference its method in the claim file; and
4. explain and document in the claim file any deviation for an individual medical bill from its usual method in determining the rate of reimbursement."

The response from the carrier shall include, per Rule 133.307 (j) (1) (F), "... if the dispute involves health care for which the Commission has not established a maximum allowable reimbursement, documentation that discusses, demonstrates, and justifies that the amount the respondent paid is a fair and reasonable rate of reimbursement in accordance with Texas Labor Code 413.011 and §133.1 and 134.1 of this title;". The law or rules are not specific in the amount of evidence that has to be submitted for a determination of fair and reasonable. In this case, the Requestor has provided some documentation to support their position that the amount billed is fair and reasonable. Additional reimbursement of **\$3,477.40** (\$4,580.00 - \$415.60 already reimbursed by carrier = \$3,477.40) is recommended.

The above Findings and Decision are hereby issued this 12th day of February, 2003.

Michael Bucklin  
Medical Dispute Resolution Officer  
Medical Review Division

MB/mb

## **VI. ORDER**

Pursuant to Sections 402.042, 413.016, 413.031, and 413.019 the Medical Review Division hereby ORDERS the Respondent to remit \$3,477.40 plus all accrued interest due at the time of payment to the Requestor within 20 days receipt of this order.

This Order is hereby issued this 12th day of February, 2003.

Carolyn Ollar  
Supervisor Medical Dispute Resolution  
Medical Review Division  
CO/